



W.P.(MD).No.14843 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.11.2023

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.14843 of 2010

PL.Kalaimathi

.. Petitioner

Vs.

1.The District Collector,
Collectorate Office,
Sivagangai.

2.The Sub-Collector,
Devakottai,
Sivagangai District.

3.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

4.The Tahsildar,
Karaikudi,
Sivagangai District.

5.The Commissioner,
Kallal Panchayat Union,
Karaikudi Taluk,
Sivagangai District.

6.The District Employment Officer,
Sivagangai District,
Sivagangai.

.. Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records relating to the proceedings made in Oo.Mu.No.A2/10551/10 dated 20.10.2010 passed by the 4th respondent and quash the same and consequently direct the 1st respondent to issue Employment Priority Certificate under the caption for persons affected due to Land Acquired for Government Purposes and further direction directing the 6th respondent to sponsor the petitioner's name in the priority basis against the existing vacancies.

For Petitioner : Mr.P.R.Prithiviraj
for Mr.L.Praveen Kumar

For R-1 and : Mr.T.Amjad Khan
R-4 to R-6 Government Advocate

For R-5 : No appearance

ORDER

The Writ Petition is filed challenging the proceedings made in Oo.Mu.No.A2/10551/10 dated 20.10.2010 passed by the 4th respondent and consequently direct the 1st respondent to issue Employment Priority Certificate under the caption for persons affected due to land acquired for Government purposes and further direction, directing the 6th respondent to sponsor the petitioner's name in the priority basis against the existing vacancies.



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2. The petitioner's paternal grandfather was the absolute owner of the property comprised in Survey No.14/3 measuring to an extent of 0.33.0 hectares situated at Sathampathi Village, Visalaiyan Kottai Panchayat, Kallal Union, Karaikudi Taluk, Sivagangai District. On his demise, the property fell to the share of one Kumarasamy, Palanichamy and Meenal. Palanichamy is the father of the writ petitioner.

3. The Sub-Collector of Devakottai had proposed to construct a School under the Jawahar Employment Scheme. He did not find any suitable land, which belongs to the Government, in the area. Therefore, he approached the legal heirs of the petitioner's grandfather, i.e., the paternal aunt, uncle and father of the writ petitioner, in order to hand over the aforesaid land, which belongs to them. By the time this request was made, substantial sums had been allotted for the construction of the School and in order to avoid the same from lapsing, the Sub Collector decided to take over the lands from the petitioner's family with their consent. Accordingly, on the request of the Sub Collector, who is the second respondent to this Writ Petition, the lands were handed over to the Government by the petitioner's family.



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4. Since lands were taken over from the family of the writ petitioner, she sought for a certificate claiming employment priority as a person, who has lost the lands for the purpose of Government scheme. The Tahsildar considered the request of the petitioner pursuant to a direction given by this Court in W.P.No.9287 of 2010 dated 21.07.2010 and rejected the same. The ground for rejection is as follows:

□ அரசு ஆணை (நிலை) எண்.188 P&AR துறை நாள்-28-12-1976ன்படி அரசு தேவைக்காக அரசு விதிகளின்படி கையகப்படுத்தும் நிலங்களுக்கு மட்டுமே வேலை வாய்ப்பில் முன்னுரிமை பெற சான்று வழங்க வழி வகை செய்யப்பட்டுள்ளது. தனிநபர் பேச்சு வார்த்தை மூலமாக அல்லது தானமாக கொடுக்கும் நிலங்களுக்கோ மேற்கண்ட சான்று வழங்க மேற்படி அரசாணையில் வழிவகை ஏதும் செய்யப்படவில்லை. ஆதலால் மனுதார்க்கு வேலை வாய்ப்பில் முன்னுரிமை பெறுவதற்கு அரசு விதிகளின்படி சான்று வழங்க இயலாது என உத்தரவிடப்படுகிறது□

This order is sought to be set aside in the present Writ Petition.

5. Heard Mr.P.R.Prithiviraj, learned counsel representing Mr.L.Praveen Kumar, learned counsel for the petitioner and Mr.T.Amjad Khan, learned Government Advocate for the respondents 1 to 4 and 6.



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6. The learned counsel for the petitioner drew my attention to the averments in the affidavit and stated that on the strength of G.O.Ms.No.188 Personnel and Administrative Reforms (Personnel-P) Department dated 28.12.1976, the petitioner is entitled for a priority certificate.

7. The learned Government Advocate also relies upon the very same Government Order. He drew my attention to Clause No.(vi) of Group-II of the Annexure and submitted that since the land of the petitioner was not acquired under the Land Acquisition Act, the petitioner is not entitled to the said relief.

8. I have carefully considered the arguments of the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents 1 to 4 and 6.

9. It is asserted by the petitioner and admitted by the respondents that the lands which belonged to them were taken over by the Government for the construction of a Panchayat Union School. It is also on record that



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subsequent to such take over, a School had also been constructed over the said property. In other words, as on today, the respondents are in possession and enjoyment of the property at Survey No.14/3, Sathampathi Village, Visalaiyan Kottai Panchayat, Kallal Union, Karaikudi Taluk, Sivagangai District.

10. The sole objection of the respondents is that these lands were not “acquired” under the Land Acquisition Act and therefore, the petitioner does not come within the scope of the aforesaid Government Order. A careful perusal of the Government Order shows that no where does it state that only in cases of compulsory acquisition of land under the Land Acquisition Act, a person is entitled for a certificate. In fact, the Government Order itself states that the Government wanted to give priority to several categories of persons, who are covered under the scheme. When the Government has not specified in the annexure that only persons whose land is compulsorily acquired are entitled to priority certificate, it is not open to a Tahsildar, who is a subordinate to the Government, to read into the Government Order, the word “compulsory acquisition”.



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11. Since the word “acquisition” has not been defined under the Government Order, law permits me to refer to its normal meaning as seen in cases of statutory interpretation. To this end, I decided to refer to the Oxford Advanced Learners Dictionary (9th Edition) as to what is the meaning of the word “acquisition”. The definition to the said word reads as follows:

“acquisition: 1)the act of getting sth, especially knowledge, a skill etc: theories of child language acquisition,

2) something that buys to, add to what they already own, usually sth valuable; Eg: His latest acquisition is a racehorse.

3) (business) a company, piece of land, etc. bought by sb, especially another company, the act of buying it: They have made acquisitions in several EU countries.”

The word “acquisition” implies any manner by which one person gets a right over another's property. In this particular case, as already pointed out above, the factum that the lands belonged to the writ petitioner's family is not denied. The factum that the land was taken over by the Sub Collector for construction of the School is not denied. It is finally not denied that the



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funds of the Government under the Jawahar employment scheme was utilised for the purpose of construction of the School and from 2010 onwards, the School is functioning over the said property.

12. I also have to look into the purpose for which the Government Order had been issued. There are several categories of persons mentioned in the said Government Order. The Government has not promised employment to such persons, but only a certificate, in order to enable those covered under the annexure, to be given a priority in employment. Such persons who are covered under the scheme are entitled to a certificate, but are not entitled as of a right to a public employment. However, denying them the right to receive a certificate on grounds, which are not found in the Government Order, necessarily requires interference. The Government has not resorted to compulsory acquisition because good sense prevailed over the Sub Collector and the family of the writ petitioner to hand over the lands and not entangle the Government in prolonged acquisition proceedings. I am unable to read the Government Order to mean that only if Land Acquisition Act is resorted to, benefit should be extended.

13. As seen from the above, acquisition includes any transfer of right



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and in this case, there being a transfer of right, the interpretation given by the Tahsildar to the Government Order is erroneous and consequently requires interference. Therefore, the Writ Petition succeeds and the impugned order dated 20.10.2010 on the file of the fourth respondent is quashed. There shall be a Mandamus to the fourth respondent/Tahsildar to issue a certificate to the petitioner stating that she is a person entitled to priority for having lost the land to the Government in terms of G.O.Ms. No.188 Personnel and Administrative Reforms (Personnel-P) Department dated 28.12.1976. Caution should be taken by the Tahsildar to ensure that the priority certificate is given to one member of the family and he is directed to follow the prescribed procedures prior to the grant of such certificate. Since the Writ Petition having been pending for more than a decade and a half, the said exercise shall be completed within a period of four (4) weeks from today.

14. Accordingly, the Writ Petition stands allowed. There shall be no order as to costs. Post the matter for “reporting compliance” on 14.12.2023.

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NCC : Yes / No
Index : Yes / No



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Internet : Yes / No
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V.LAKSHMINARAYANAN,J.

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